

161—4.16(17A) Hearing procedures.

4.16(1) Objections. All objections shall be timely made and stated in the record. Any objection not duly made before the presiding officer shall be deemed waived.

4.16(2) Representation of parties. Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director or duly authorized agent. Any party may be represented by an attorney or another person authorized by law.

4.16(3) Rights of parties. Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

4.16(4) Sequestration of witnesses. At the request of a party, a presiding officer may order witnesses sequestered so they cannot hear the testimony of other witnesses, and the judge may make the order sua sponte. This rule does not authorize sequestration of (a) a party who is a natural person, or (b) an officer or employee of a party which is not a natural person designated as its representative by its attorney, or (c) a person whose presence is shown by a party to be essential to the presentation of the cause.

4.16(5) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceeding;

b. The parties shall be given an opportunity to present an opening statement;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

4.16(6) Marking of exhibits. Exhibits entered into evidence which are offered by the commission or the complainant shall be numbered serially, i.e., 1, 2, 3, etc.; whereas those offered by the respondent shall be lettered serially, i.e., A, B, C, AA, BB, etc.; and those offered jointly shall be designated by “joint exhibit” and numbered serially.

4.16(7) Contents of record. The record in a contested case before the presiding officer shall include:

a. All pleadings, motions, and rulings;

b. All evidence received or considered and all other submissions;

c. A statement of matters officially noticed;

d. All questions and offers of proof, objections, and rulings thereon;

e. All proposed findings and exceptions;

f. Any decision, opinion or report by the officer presiding at the hearing.

The term “all other submissions” as used in this rule includes, but is not limited to, all written arguments filed with the presiding officer or the commission plus any attachments to such arguments.

Deliberations of the commission when deciding whether to adopt a proposed decision are not part of the record unless expressly made part of the record by order of the commission or the presiding officer.

4.16(8) Standards of conduct.

a. All persons appearing in proceedings before the presiding officer are expected to act with integrity, and in an ethical manner.

b. The presiding officer may exclude from proceedings parties, witnesses, and their representatives for refusal to comply with directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or violation of the prohibition against ex parte communications. The presiding officer shall state in the record the cause for barring an attorney or other individual from participation in a particular proceeding. The presiding officer may suspend the proceeding for a reasonable time for the purpose of enabling a party to obtain another attorney or representative. In accordance with Rule 1.2 of the Committee on Professional Ethics and Conduct of the Iowa State Bar Association, the presiding officer may also file a complaint with the committee if the judge

believes that there has been a violation by an attorney of the Iowa Code of Professional Responsibility for Lawyers.

c. An order barring an individual from participation in a proceeding should be made only in exceptional circumstances.